

**STATE OF VERMONT  
CONTRACT AMENDMENT**

It is hereby agreed by and between the State of Vermont, Department of Vermont Health Access (the "State"), and DataStat Inc., with a principal place of business in Ann Arbor, Michigan (hereafter called "Contractor"), that the contract between them originally effective as of July 1, 2017, Contract #33581, as previously Amended, (the "Contract") is hereby amended effective June 15, 2018, as follows:

1. **Maximum Amount.** The maximum amount payable under the contract, wherever such reference appears in the Contract, shall be changed from \$182,040.36 to \$364,080.72, representing an increase of \$182,040.36
2. **Contract Term.** The Contract end date, wherever such reference appears in the Contract, shall be changed from June 30, 2018 to June 14, 2019. This contract may be extended, by mutual agreement of the Parties, for an additional two (2) one-year terms.
3. **Contacts and Notices.** The contacts for this contract are hereby deleted in their entirety and replaced as follows:

	<u>State Fiscal Manager</u>	<u>State Program Manager</u>	<u>For the Contractor</u>
Name:	Meaghan Kelley	Matthew Snodgrass	Marielle Weindorf
Phone #:	802-241-0393	802-241-0392	734-994-0540 x 186
E-mail:	Meaghan.Kelley@vermont.gov	Matthew.Snodgrass@vermont.gov	mweindorf@datastat.com

4. **Attachment A, Specifications of Work to Be Performed.** The scope of services is amended as follows:

Scope paragraph of Attachment A is hereby deleted in its entirety and substituted as follows:

**SCOPE**

The Contractor shall complete three (3) tasks annually for the State:

- CAHPS®-CG (with or without PCMH items) Project Activities – Data Sampling and Collection
- CAHPS®-CG (with or without PCMH items) Project Activities – Data Reporting
- CAHPS® 5.0H for the Medicaid Population Project Activities – Data Sampling and Collection and Data Reporting

Tasks in Year 1 are from July 1 – June 14<sup>th</sup>. Tasks in Year 2 begin June 15<sup>th</sup> – June 14<sup>th</sup>.

Task 1: CAHPS®-CG (with or without PCMH items) Project Activities – Data Sampling and Collection, of Attachment A is amended by deleting the last sentence, "The State will make

this determination one week after contract executions (tentatively July 7, 2017) to be implemented for the surveys to be fielded during Fall 2017” and substituting in lieu thereof the following sentence: “The State will make this determination one week from the start of each contract year.”

Task 1A. Sampling Services, of Attachment A is amended as follows:

By deleting number 9 in its entirety and substituting in lieu thereof the following number 9:

9. The Contractor shall remove from the data files any patient who does not meet the age criterion for the adult or child survey, as appropriate, using the designated cutoff date, which shall be the last day of the measurement period, per NCQA guidelines. The specific date shall be determined by the Contractor and the State. The measurement period is defined as the 12 months prior to the date when the eligible population file is generated by the practice. The Contractor will report the final number of eligible, deduplicated cases to be selected to the State prior to identifying the total sample to be selected.

By deleting number 12 in its entirety and substituting in lieu thereof the following number 12:

12. The Contractor shall conduct oversampling for ACO-attributed cases and/or practice populations expected to have low response rates, if requested in writing by the State. The State will identify these practice populations prior to identifying the total sample to be selected. Oversampling will be conducted at \$1.44 per case. Oversampling is included within the Contractor’s Year 1 budget. In contract Year 2, oversampling shall be done at the State’s request and the cost to administer any such oversampling must not cause an exceedance of the maximum contract amount.

Task 1B. Data Collection Services, of Attachment A is amended by deleting number 2 of subsection *Processing Incoming Mail* in its entirety and substituting in lieu thereof the following number 2:

2. As surveys are returned, the Contractor shall enter all received data into the appropriate computer system. After data entry has been completed, the Contractor shall conduct data cleaning and perform both format and outlier checks, according to Contractor standards with input from the State. The Contractor shall deliver these standards to the State by July 14, 2017. These standards will remain in effect for all future amendments to this contract.

Task 2: CAHPS – CG (with or without PCMH items) Project Activities – Data Reporting, of Attachment A is amended by deleting in its entirety and substituting in lieu thereof the following Task 2:

**TASK 2: CAHPS®-CG (with or without PCMH items) Project Activities – Data Reporting**

The Contractor will work closely with the State (including the Blueprint and Green Mountain Care Board, at the State's discretion) in developing reports that present the results in ways that are accessible, meaningful, and support the evaluation of the quality of primary care in the wake of the payment and delivery system reforms.

1. The Contractor shall provide the State annually with a project plan for sampling and data collection services, similar to the sample deliverable timeline, which includes fielding the CAHPS®-CG (PCMH) survey in the Fall under one data collection wave. The survey in Year 1 will be conducted from September to December; the survey in Year 2 will be conducted from August to November. "One data collection wave" means that these surveys will be fielded only once in a given year at the same time. The project plan shall include a detailed timeline of activities showing all major activities and deliverables in the sample deliverables timeline. The project plan is due two weeks after the start of a new contract year.
2. On a weekly basis during the field period, the Contractor shall provide the State with project status reports. The schedule for status report deliveries shall be determined by the State, based upon the timeline listed below in the "SAMPLE DELIVERABLE TIMELINE" section. The Contractor will provide the State with any changes to the sample deliverable timeline within two weeks of the start of a new contract year. Financial reports and invoices shall be provided at least quarterly. During the field period, the Contractor shall report on a weekly basis on the total survey completions to date and a summary of sample dispositions resolved since the previous report was issued.
3. After data collection, data entry, and data consolidation have been completed, the Contractor shall prepare a dataset for the State, using the data file layout specified by NCQA. The dataset shall include values for each questionnaire item by completed case and shall be purged of any "protected health information," as that term is defined in 45 CFR §160.103. Both response and non-response data shall be included. The dataset shall be submitted in a choice of format (e.g. SAS, SPSS, Excel), organized as a single record for each member composed of a string of fields containing data values. Weighting of the data is not included, but weights provided by the State can be applied, at additional cost, if desired by the State. If the weights are elected by the State, the Contractor and the State understand that this will be a task requiring an amendment per Bulletin 3.5. The Contractor shall ensure that a data file layout with defined labels and values accompanies the dataset. The Contractor shall only deliver this dataset to a third-party vendor at the request of the State. The Contractor shall flag ACO respondents in the dataset prepared for the State.
4. The Contractor shall produce and deliver a standard CAHPS®-CG (with or without PCMH items) practice-level report for each participating practice, in an Excel file format to allow practices to track their results over time. The

Contractor shall also transmit the data to the State, in a format decided on by the State, in order for the State to develop reports. These reports shall present scores and descriptive statistics for all scored measures and composites, with comparison of practice scores to an overall score.

5. After delivery of reports specified above, the Contractor shall maintain all records and returned, completed surveys as specified by NCQA. Upon expiration or cancellation of the contract, the Contractor shall contact the State to discuss the disposition of these documents. The Contractor shall shred all returned questionnaires, unless other arrangements are made between the State and the Contractor.

Task 3A. Sampling Services of Attachment A is amended as follows:

By deleting the sentence in number 6 that reads, "Oversampling will be conducted at \$9.26 per case" and replacing with, "Oversampling will be conducted at \$9.27 per case."

By adding the following:

11. The Contractor shall conduct Sampling Services annually. Sampling Services in Year 1 are from July 1 – June 14th; Sampling Services in Year 2 are from June 15th – June 14<sup>th</sup>.

Task 3B. Data Collection, subsection *Processing Incoming Mail*, of Attachment A is amended by deleting number 8 in its entirety and substituting in lieu thereof the following number 8:

8. As surveys are returned, the Contractor shall enter all received data into the appropriate computer system. After data entry has been completed, the Contractor shall conduct data cleaning and perform both format and outlier checks, according to Contractor standards with input from the State. The Contractor shall deliver these standards to the State by July 14, 2017. These standards will remain in effect for all future amendments to this contract.

Task 3E. Data Reporting of Attachment A is deleted in its entirety and substituted with the following Section E:

**E. Data Reporting**

The Contractor shall work closely with the State (including Blueprint and Vermont Medicaid) in developing reports that present the results in ways that are accessible, meaningful, and support the evaluation of the quality of primary care for the Medicaid population.

1. The Contractor shall provide the State with a project plan for sampling and data collection services, similar to the sample deliverable timeline, which includes fielding the CAHPS® 5.0H survey in the Fall under one data collection wave. The survey in Year 1 shall be conducted from September to

December; the survey in Year 2 shall be conducted from August to November. "One data collection wave" means that these surveys shall be fielded only once in a given year at the same time. The project plan shall include a detailed timeline of activities showing all major activities and deliverables in the sample deliverables timeline. The project plan is due two weeks after the start of a new contract year.

2. On a weekly basis during the field period, the Contractor shall provide the State with project status reports. The schedule for status report deliveries shall be determined by project milestones and by mutual agreement of the State and the Contractor. Financial reports and invoices shall be provided at least quarterly.
3. After data collection, data entry, and data consolidation have been completed, the Contractor shall prepare the Standard Overview Report for the State. If the State chooses to oversample for special subpopulations, the Contractor shall produce a separate Standard Overview Report for each subpopulation.
4. After delivery of reports specified above, the Contractor shall maintain all records and returned, completed surveys as specified by NCQA. Upon expiration or cancellation of the contract, the Contractor shall contact the State to discuss the disposition of these documents. The Contractor shall shred all returned questionnaires, unless other arrangements are made between the State and the Contractor.

Sample Deliverable Timeline section of Attachment A is deleted in its entirety and substituted with the following Sample Deliverable Timeline:

#### **SAMPLE DELIVERABLE TIMELINE**

##### **A. DATA SAMPLING and COLLECTION**

The Contractor shall complete three (3) tasks for the State each contract year. Two items are related to data sampling and collection:

1. Task 1 - CAHPS®-CG (with or without PCMH items) Project Activities – Data Sampling and Collection
2. Task 3 - CAHPS® 5.0H for the Medicaid Population Project Activities – Data Sampling and Collection

The Sample Deliverable Timeline below provides a template for the project plan to be delivered to the State no more than two weeks after the execution of the contract. The Sample Deliverable Timeline below applies to Task 1 only.

<b><u>Sample Deliverable Timeline</u></b>	<b><u>Year 1 Schedule</u></b>	<b><u>Year 2 Schedule</u></b>
Contract commences	July 1, 2017	June 15, 2018

Contractor contacts practices for receipt of BAAs, sample frame files, and logos and signatures, henceforth known as 'Submission 1'	September 14, 2017	August 1, 2018
Submission 1 reminder email sent	September 25, 2017	August 13, 2018
Sample frame file submission window closes	September 29, 2017	August 17, 2018
Actual frame file submission window opens	September 25, 2017	August 13, 2018
BAAs completed by required practices	September 25, 2017	August 13, 2018
Logos & signatures submission window closes	October 2, 2017	August 20, 2018
Actual frame file reminder email	October 9, 2017	August 27, 2018
Actual frame file submission window closes	October 13, 2017	August 31, 2018
Data collection: 1 <sup>st</sup> mailing	November 15, 2017	October 1, 2018
Data collection: 2 <sup>nd</sup> mailing	December 8, 2017	October 24, 2018
Data collection field closes	January 4, 2018	November 21, 2018

The Sample Deliverable Timeline below provides a template for the project plan to be delivered to the State no more than two weeks after the execution of the contract. The Sample Deliverable Timeline below applies to Task 3 only.

<b><u>Sample Deliverable Timeline</u></b>	<b>Year 1 Schedule</b>	<b>Year 2 Schedule</b>
Contract commences	July 1, 2017	June 15, 2018
Contractor sends draft materials for review and approval	September 15, 2017	July 13, 2018
Contractor receives final frame files	September 29, 2017	July 27, 2018
Data collection: 1 <sup>st</sup> mailing	October 17, 2017	August 17, 2018
Data collection: Reminder Postcard mailing	October 24, 2017	August 24, 2018
Data collection: 2 <sup>nd</sup> mailing	November 14, 2017	September 14, 2018

Data collection: Phone follow-up begins	December 5, 2017	October 5, 2018
Data collection field closes	December 22, 2017	October 26, 2018

## B. DATA REPORTING

The Contractor shall complete three (3) tasks for the State annually. Two items are related to reporting:

1. Task 2 - CAHPS®-CG, with or without PCMH items, Project Activities – Data Reporting
2. Task 3 - CAHPS® 5.0H for the Medicaid Population Project Activities – Data Reporting

<b><u>Sample Deliverable Timeline</u></b>	<b><u>Year 1 Schedule</u></b>	<b><u>Year 2 Schedule</u></b>
Contract commences	July 1, 2017	June 15, 2018
Contractor submits project plan to the State	July 14, 2017	July 14, 2018
Contractor submits standards for processing incoming mail to the State	Within 14 days of contract execution	N/A
Weekly reports on: <ul style="list-style-type: none"> <li>• Total surveys completed to date</li> <li>• Summary of sample dispositions resolved since previous report</li> <li>• Any problems encountered &amp; their resolution</li> </ul>	September 8, 2017 – December 15, 2017	August 1, 2018 – November 21, 2018
Dataset completed for the State	February 16, 2018	January 9, 2019
Practice-level reports completed for the practices	February 16, 2018	January 9, 2019
ACO linkage completed for the ACOs	February 16, 2018	January 9, 2019
Two Standard Overview Reports, one for adult and one for child, completed for Medicaid / additional Standard Overview Reports for specialized subpopulations	January 19, 2018	November 26, 2018

5. **Attachment B, Payment Provisions.** The payment provisions of this Contract are hereby deleted in their entirety and replaced as set forth below:

### **ATTACHMENT B – PAYMENT PROVISIONS**

The maximum dollar amount payable under this contract is not intended as any form of a guaranteed amount. The Contractor shall be paid for products or services actually delivered or performed as specified in Attachment A, up to the total maximum allowable amount specified on page 1 of the Contract.

1. Prior to commencement of work and release of any payments, Contractor shall submit to the State:
  - a. a certificate of insurance consistent with the requirements set forth in Attachment C, Section 8 (Insurance), and with any additional requirements for insurance as may be set forth elsewhere in this contract; and
  - b. a current IRS Form W-9 (signed within the last six months).
2. Payment terms are **NET 30** from the date the State receives an error-free invoice with all necessary and complete supporting documentation.
3. Contractor invoices shall be submitted not more frequently than monthly, but no later than quarterly and shall be in accordance with this Attachment B.
4. The Contractor shall subdivide invoicing based on tasks in Attachment A; Tasks 1 and 2 shall be grouped together in one invoice and task 3 shall remain a separate invoice.
  - a. For Tasks 1 and 2, each invoice must include:
    1. a unique invoice number;
    2. contract number;
    3. dates of service; and
    4. accurate date of invoice submission request for payment shall include the number of practices fielded and be subdivided by the cost per practice, which includes:
      - i. the set-up fee for the survey group: \$347.70; if the practice is fielding both an adult and child survey the set-up fee will be \$695.40 ( $=\$347.70*2$ );
      - ii. the number of cases fielded at the practice
      - iii. the total cost per practice;
      - iv. ACO reporting costs shall be invoiced as development and production per table "Total ACO Costs" below; and
      - v. if applicable, oversampling costs shall be invoiced per the "Total Oversampling Costs" table below.

- b. For task 3, each invoice must include:
  1. a unique invoice number;
  2. contract number;
  3. dates of service;
  4. accurate date of invoice submission request for payment, which payment shall be subdivided by the number of cases fielded within each survey group and include the cost per case: \$9.27; and
  5. if applicable, oversampling costs shall be invoiced per the "Total Oversampling Costs" below.
5. Contractor shall not be reimbursed for expenses, including supplies, benefits, or insurance.
6. Invoices should reference this contract number and be submitted electronically to:  
  
Meaghan Kelley: [Meaghan.Kelley@vermont.gov](mailto:Meaghan.Kelley@vermont.gov)  
  
Matthew Snodgrass: [Matthew.Snodgrass@vermont.gov](mailto:Matthew.Snodgrass@vermont.gov)
7. Invoices shall be accompanied by a:
  - a. Financial Reporting Form in Excel format (to be provided by the State). A final Financial Report Form will be due no later than 30 calendar days after the end date of the agreement. The final financial report will report actual approved expenditures against payments received.
  - b. Master list of practices as maintained by the Contractor, in a format determined by the State
8. The maximum allowable payable for the period of this contract, July 1, 2017 to June 14, 2019 shall be subdivided as follows:

**Task 1: Data Collection and Sampling for the CAHPS®-CG (with or without PCMH items) Project AND Task 2: Data Reporting for the CAHPS®-CG (with or without PCMH items) Project**

Requirements for Fielding	
# Providers at Site	Minimum Sample Size (per NCQA)
1	128
2-3	171
4-9	343
10-13	429

14-19	500
20-28	643
29+	686

Total Survey Field Costs					
		Column A	Column B	Column C	Column D
VTID	Practice Name	Setup Fee (\$347.70 per survey group; the practice determines whether it wishes to field both survey groups)	Number of Cases Fielded	Field Cost (=Column B * \$1.44)	Total Cost (= Column A + Column C)

Total ACO Costs					
Linkage Type	Development		Production		Total
	Cost	Number	Cost	Number	
ACO	\$2,450	1	\$1,000	2	\$4,450
TOTAL ANNUAL ACO LINKAGE COSTS					\$4,450

Total Oversampling Costs	
Column A	Column B
Number of Cases Fielded per Oversampling Specifications	Total Cost (= Column A * \$1.44)

**Task 3: Data Collection and Sampling for the CAHPS® 5.0 Child Medicaid Survey Project**

	Column A	Column B	Column C
Survey Group	Number of Cases Fielded	Field Cost (\$9.27)	Total Cost (= Column A * Column B)
Adult			
Child			

**Budget**

**Beginning July 1, 2017 ending June 14, 2018**

Blueprint and Medicaid Patient Experience Survey Budget Summary		
Task	Description	Total Amount Budgeted

<b>Task 1 &amp; 2</b>	CAHPS®-CG (with or without PCMH items) Project Activities – Data Sampling and Collection	\$136,040.36
	CAHPS®-CG (with or without PCMH items) Project Activities – Data Reporting	
<b>Task 3</b>	CAHPS® 5.0H for the Medicaid Population Project Activities – Data Sampling and Collection and Data Reporting	\$46,000
<b>Total</b>		<b>\$182,040.36</b>

**Budget beginning June 15, 2018 ending June 14, 2019**

<b>Blueprint and Medicaid Patient Experience Survey Budget Summary</b>		
<b>Task</b>	<b>Description</b>	<b>Total Amount Budgeted</b>
<b>Task 1 &amp; 2</b>	CAHPS®-CG (with or without PCMH items) Project Activities – Data Sampling and Collection	\$136,040.36
	CAHPS®-CG (with or without PCMH items) Project Activities – Data Reporting	
<b>Task 3</b>	CAHPS® 5.0H for the Medicaid Population Project Activities – Data Sampling and Collection and Data Reporting	\$46,000
<b>Total</b>		<b>\$182,040.36</b>

6. **Attachment C, Standard State Provisions for Contracts and Grants.** Attachment C is hereby deleted in its entirety and replaced with the Attachment C effective December 15, 2017 attached to this Amendment.
7. **Taxes Due to the State.** Contractor certifies under the pains and penalties of perjury that, as of the date this contract amendment is signed, the Contractor is in good standing with respect to, or in full compliance with a plan to pay, any and all taxes due the State of Vermont.
8. **Child Support (Applicable to natural persons only; not applicable to corporations, partnerships or LLCs).** Contractor is under no obligation to pay child support or is in good standing with respect to or in full compliance with a plan to pay any and all child support payable under a support order as of the date of this amendment.
9. **Certification Regarding Suspension or Disbarment.** Contractor certifies under the pains and penalties of perjury that, as of the date this contract amendment is signed, neither Contractor nor Contractor's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in federal programs, or programs supported in whole or in part by federal funds.

**STATE OF VERMONT  
DEPARTMENT OF VERMONT HEALTH ACCESS  
DATASTAT INC.**

**PAGE 12 OF 19  
CONTRACT #33581  
AMENDMENT #2**


Contractor further certifies under pains and penalties of perjury that, as of the date this contract amendment is signed, Contractor is not presently debarred, suspended, nor named on the State's debarment list at: <http://bgs.vermont.gov/purchasing-contracting/debarment>

This document consists of 19 pages. Except as modified in Amendment 2, all provisions of the Contract remain in full force and effect.

The signatures of the undersigned indicate that each has read and agrees to be bound by this Amendment to the Contract.

**STATE OF VERMONT**

**DATASTAT, INC.**

**By:**  e-Signed by Cory Gustafson  
on 2018-06-05 22:51:47 GMT

**By:**  e-Signed by Marielle Weindorf  
on 2018-06-05 21:13:45 GMT

CORY GUSTAFSON, COMMISSIONER  
AHS/DVHA  
NOB 1 South, 280 State Drive  
Waterbury, VT 05671-1010  
Phone: 802-241-0246  
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**ATTACHMENT C: STANDARD STATE PROVISIONS  
FOR CONTRACTS AND GRANTS  
REVISED DECEMBER 15, 2017**

**1. Definitions:** For purposes of this Attachment, "Party" shall mean the Contractor, Grantee or Subrecipient, with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement. "Agreement" shall mean the specific contract or grant to which this form is attached.

**2. Entire Agreement:** This Agreement, whether in the form of a contract, State-funded grant, or Federally-funded grant, represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect.

**3. Governing Law, Jurisdiction and Venue; No Waiver of Jury Trial:** This Agreement will be governed by the laws of the State of Vermont. Any action or proceeding brought by either the State or the Party in connection with this Agreement shall be brought and enforced in the Superior Court of the State of Vermont, Civil Division, Washington Unit. The Party irrevocably submits to the jurisdiction of this court for any action or proceeding regarding this Agreement. The Party agrees that it must first exhaust any applicable administrative remedies with respect to any cause of action that it may have against the State with regard to its performance under this Agreement. Party agrees that the State shall not be required to submit to binding arbitration or waive its right to a jury trial.

**4. Sovereign Immunity:** The State reserves all immunities, defenses, rights or actions arising out of the State's sovereign status or under the Eleventh Amendment to the United States Constitution. No waiver of the State's immunities, defenses, rights or actions shall be implied or otherwise deemed to exist by reason of the State's entry into this Agreement.

**5. No Employee Benefits For Party:** The Party understands that the State will not provide any individual retirement benefits, group life insurance, group health and dental insurance, vacation or sick leave, workers compensation or other benefits or services available to State employees, nor will the State withhold any state or Federal taxes except as required under applicable tax laws, which shall be determined in advance of execution of the Agreement. The Party understands that all tax returns required by the Internal Revenue Code and the State of Vermont, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Party, and information as to Agreement income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes.

**6. Independence:** The Party will act in an independent capacity and not as officers or employees of the State.

**7. Defense and Indemnity:** The Party shall defend the State and its officers and employees against all third party claims or suits arising in whole or in part from any act or omission of the Party or of any agent of the Party in connection with the performance of this Agreement. The State shall notify the Party in the event of any such claim or suit, and the Party shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit. The State retains

the right to participate at its own expense in the defense of any claim. The State shall have the right to approve all proposed settlements of such claims or suits.

After a final judgment or settlement, the Party may request recoupment of specific defense costs and may file suit in Washington Superior Court requesting recoupment. The Party shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the Party in connection with the performance of this Agreement.

The Party shall indemnify the State and its officers and employees if the State, its officers or employees become legally obligated to pay any damages or losses arising from any act or omission of the Party or an agent of the Party in connection with the performance of this Agreement.

Notwithstanding any contrary language anywhere, in no event shall the terms of this Agreement or any document furnished by the Party in connection with its performance under this Agreement obligate the State to (1) defend or indemnify the Party or any third party, or (2) otherwise be liable for the expenses or reimbursement, including attorneys' fees, collection costs or other costs of the Party or any third party.

**8. Insurance:** Before commencing work on this Agreement the Party must provide certificates of insurance to show that the following minimum coverages are in effect. It is the responsibility of the Party to maintain current certificates of insurance on file with the State through the term of this Agreement. No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Party for the Party's operations. These are solely minimums that have been established to protect the interests of the State.

*Workers Compensation:* With respect to all operations performed, the Party shall carry workers' compensation insurance in accordance with the laws of the State of Vermont. Vermont will accept an out-of-state employer's workers' compensation coverage while operating in Vermont provided that the insurance carrier is licensed to write insurance in Vermont and an amendatory endorsement is added to the policy adding Vermont for coverage purposes. Otherwise, the party shall secure a Vermont workers' compensation policy, if necessary to comply with Vermont law.

*General Liability and Property Damage:* With respect to all operations performed under this Agreement, the Party shall carry general liability insurance having all major divisions of coverage including, but not limited to:

- Premises - Operations

- Products and Completed Operations

- Personal Injury Liability

- Contractual Liability

The policy shall be on an occurrence form and limits shall not be less than:

- \$1,000,000 Each Occurrence

- \$2,000,000 General Aggregate

- \$1,000,000 Products/Completed Operations Aggregate

- \$1,000,000 Personal & Advertising Injury

*Automotive Liability:* The Party shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the Agreement. Limits of coverage shall not be less than \$500,000 combined single limit. If performance of this

Agreement involves construction, or the transport of persons or hazardous materials, limits of coverage shall not be less than \$1,000,000 combined single limit.

*Additional Insured.* The General Liability and Property Damage coverages required for performance of this Agreement shall include the State of Vermont and its agencies, departments, officers and employees as Additional Insureds. If performance of this Agreement involves construction, or the transport of persons or hazardous materials, then the required Automotive Liability coverage shall include the State of Vermont and its agencies, departments, officers and employees as Additional Insureds. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

*Notice of Cancellation or Change.* There shall be no cancellation, change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written prior written notice to the State.

**9. Reliance by the State on Representations:** All payments by the State under this Agreement will be made in reliance upon the accuracy of all representations made by the Party in accordance with this Agreement, including but not limited to bills, invoices, progress reports and other proofs of work.

**10. False Claims Act:** The Party acknowledges that it is subject to the Vermont False Claims Act as set forth in 32 V.S.A. § 630 *et seq.* If the Party violates the Vermont False Claims Act it shall be liable to the State for civil penalties, treble damages and the costs of the investigation and prosecution of such violation, including attorney's fees, except as the same may be reduced by a court of competent jurisdiction. The Party's liability to the State under the False Claims Act shall not be limited notwithstanding any agreement of the State to otherwise limit Party's liability.

**11. Whistleblower Protections:** The Party shall not discriminate or retaliate against one of its employees or agents for disclosing information concerning a violation of law, fraud, waste, abuse of authority or acts threatening health or safety, including but not limited to allegations concerning the False Claims Act. Further, the Party shall not require such employees or agents to forego monetary awards as a result of such disclosures, nor should they be required to report misconduct to the Party or its agents prior to reporting to any governmental entity and/or the public.

**12. Location of State Data:** No State data received, obtained, or generated by the Party in connection with performance under this Agreement shall be processed, transmitted, stored, or transferred by any means outside the continental United States, except with the express written permission of the State.

**13. Records Available for Audit:** The Party shall maintain all records pertaining to performance under this agreement. "Records" means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired by the Party in the performance of this agreement. Records produced or acquired in a machine readable electronic format shall be maintained in that format. The records described shall be made available at reasonable times during the period of the Agreement and for three years thereafter or for any period required by law for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

**14. Fair Employment Practices and Americans with Disabilities Act:** Party agrees to comply with the requirement of 21 V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Party shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990, as amended, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Party under this Agreement.

**15. Set Off:** The State may set off any sums which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any set off of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.

**16. Taxes Due to the State:**

- A. Party understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services within the State, payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.
- B. Party certifies under the pains and penalties of perjury that, as of the date this Agreement is signed, the Party is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.
- C. Party understands that final payment under this Agreement may be withheld if the Commissioner of Taxes determines that the Party is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due to the State of Vermont.
- D. Party also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Party has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Party has no further legal recourse to contest the amounts due.

**17. Taxation of Purchases:** All State purchases must be invoiced tax free. An exemption certificate will be furnished upon request with respect to otherwise taxable items.

**18. Child Support:** (Only applicable if the Party is a natural person, not a corporation or partnership.) Party states that, as of the date this Agreement is signed, he/she:

- A. is not under any obligation to pay child support; or
- B. is under such an obligation and is in good standing with respect to that obligation; or
- C. has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan.

Party makes this statement with regard to support owed to any and all children residing in Vermont. In addition, if the Party is a resident of Vermont, Party makes this statement with regard to support owed to any and all children residing in any other state or territory of the United States.

**19. Sub-Agreements:** Party shall not assign, subcontract or subgrant the performance of this Agreement or any portion thereof to any other Party without the prior written approval of the State. Party shall be responsible and liable to the State for all acts or omissions of subcontractors and any

other person performing work under this Agreement pursuant to an agreement with Party or any subcontractor.

In the case this Agreement is a contract with a total cost in excess of \$250,000, the Party shall provide to the State a list of all proposed subcontractors and subcontractors' subcontractors, together with the identity of those subcontractors' workers compensation insurance providers, and additional required or requested information, as applicable, in accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54).

Party shall include the following provisions of this Attachment C in all subcontracts for work performed solely for the State of Vermont and subcontracts for work performed in the State of Vermont: Section 10 ("False Claims Act"); Section 11 ("Whistleblower Protections"); Section 12 ("Location of State Data"); Section 14 ("Fair Employment Practices and Americans with Disabilities Act"); Section 16 ("Taxes Due the State"); Section 18 ("Child Support"); Section 20 ("No Gifts or Gratuities"); Section 22 ("Certification Regarding Debarment"); Section 30 ("State Facilities"); and Section 32.A ("Certification Regarding Use of State Funds").

**20. No Gifts or Gratuities:** Party shall not give title or possession of anything of substantial value (including property, currency, travel and/or education programs) to any officer or employee of the State during the term of this Agreement.

**21. Copies:** Party shall use reasonable best efforts to ensure that all written reports prepared under this Agreement are printed using both sides of the paper.

**22. Certification Regarding Debarment:** Party certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, neither Party nor Party's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in Federal programs, or programs supported in whole or in part by Federal funds.

Party further certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, Party is not presently debarred, suspended, nor named on the State's debarment list at: <http://bgs.vermont.gov/purchasing/debarment>

**23. Conflict of Interest:** Party shall fully disclose, in writing, any conflicts of interest or potential conflicts of interest.

**24. Confidentiality:** Party acknowledges and agrees that this Agreement and any and all information obtained by the State from the Party in connection with this Agreement are subject to the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq.

**25. Force Majeure:** Neither the State nor the Party shall be liable to the other for any failure or delay of performance of any obligations under this Agreement to the extent such failure or delay shall have been wholly or principally caused by acts or events beyond its reasonable control rendering performance illegal or impossible (excluding strikes or lock-outs) ("Force Majeure"). Where Force Majeure is asserted, the nonperforming party must prove that it made all reasonable efforts to remove, eliminate or minimize such cause of delay or damages, diligently pursued performance of its obligations under this Agreement, substantially fulfilled all non-excused

obligations, and timely notified the other party of the likelihood or actual occurrence of an event described in this paragraph.

**26. Marketing:** Party shall not refer to the State in any publicity materials, information pamphlets, press releases, research reports, advertising, sales promotions, trade shows, or marketing materials or similar communications to third parties except with the prior written consent of the State.

**27. Termination:**

- A. Non-Appropriation:** If this Agreement extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this Agreement, the State may cancel at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement is a Grant that is funded in whole or in part by Federal funds, and in the event Federal funds become unavailable or reduced, the State may suspend or cancel this Grant immediately, and the State shall have no obligation to pay Subrecipient from State revenues.
- B. Termination for Cause:** Either party may terminate this Agreement if a party materially breaches its obligations under this Agreement, and such breach is not cured within thirty (30) days after delivery of the non-breaching party's notice or such longer time as the non-breaching party may specify in the notice.
- C. Termination Assistance:** Upon nearing the end of the final term or termination of this Agreement, without respect to cause, the Party shall take all reasonable and prudent measures to facilitate any transition required by the State. All State property, tangible and intangible, shall be returned to the State upon demand at no additional cost to the State in a format acceptable to the State.

**28. Continuity of Performance:** In the event of a dispute between the Party and the State, each party will continue to perform its obligations under this Agreement during the resolution of the dispute until this Agreement is terminated in accordance with its terms.

**29. No Implied Waiver of Remedies:** Either party's delay or failure to exercise any right, power or remedy under this Agreement shall not impair any such right, power or remedy, or be construed as a waiver of any such right, power or remedy. All waivers must be in writing.

**30. State Facilities:** If the State makes space available to the Party in any State facility during the term of this Agreement for purposes of the Party's performance under this Agreement, the Party shall only use the space in accordance with all policies and procedures governing access to and use of State facilities which shall be made available upon request. State facilities will be made available to Party on an "AS IS, WHERE IS" basis, with no warranties whatsoever.

**31. Requirements Pertaining Only to Federal Grants and Subrecipient Agreements:** If this Agreement is a grant that is funded in whole or in part by Federal funds:

- A. Requirement to Have a Single Audit:** The Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a Single Audit is required for the prior fiscal year. If a Single Audit is required, the Subrecipient will submit a copy of the audit report to the granting Party

within 9 months. If a single audit is not required, only the Subrecipient Annual Report is required.

For fiscal years ending before December 25, 2015, a Single Audit is required if the subrecipient expends \$500,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with OMB Circular A-133. For fiscal years ending on or after December 25, 2015, a Single Audit is required if the subrecipient expends \$750,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a Single Audit is required.

- B. Internal Controls:** In accordance with 2 CFR Part II, §200.303, the Party must establish and maintain effective internal control over the Federal award to provide reasonable assurance that the Party is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States and the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- C. Mandatory Disclosures:** In accordance with 2 CFR Part II, §200.113, Party must disclose, in a timely manner, in writing to the State, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures may result in the imposition of sanctions which may include disallowance of costs incurred, withholding of payments, termination of the Agreement, suspension/debarment, etc.

### **32. Requirements Pertaining Only to State-Funded Grants:**

- A. Certification Regarding Use of State Funds:** If Party is an employer and this Agreement is a State-funded grant in excess of \$1,001, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party's employee's rights with respect to unionization.
- B. Good Standing Certification (Act 154 of 2016):** If this Agreement is a State-funded grant, Party hereby represents: (i) that it has signed and provided to the State the form prescribed by the Secretary of Administration for purposes of certifying that it is in good standing (as provided in Section 13(a)(2) of Act 154) with the Agency of Natural Resources and the Agency of Agriculture, Food and Markets, or otherwise explaining the circumstances surrounding the inability to so certify, and (ii) that it will comply with the requirements stated therein.

(End of Standard Provisions)